

C. Brandon Wisoff (SBN 121930)  
bwisoff@fbm.com  
Benjamin J. Sitter (SBN 273394)  
bsitter@fbm.com  
FARELLA BRAUN + MARTEL LLP  
235 Montgomery Street, 17<sup>th</sup> Floor  
San Francisco, CA 94104  
Telephone: (415) 954-4400  
Facsimile: (415) 954-4480

Frederick B. Warder III  
(*admitted pro hac vice*)  
fbwarder@pbwt.com  
PATTERSON BELKNAP WEBB &  
TYLER LLP  
1133 Avenue of the Americas  
New York, NY 10036  
Telephone: (212) 336-2121  
Facsimile: (212) 336-2222

Attorneys for Defendants L'ORÉAL  
USA, INC. and MAYBELLINE, LLC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LIAT ORSHANSKY, on behalf of  
herself and others similarly situated,  
  
Plaintiffs,

vs.

L'OREAL USA, INC., a Delaware  
corporation; MAYBELLINE, LLC, a  
New York limited liability company  
dba MAYBELLINE, NEW YORK,

Defendants.

Jeremy Feigelson  
(*to be admitted pro hac vice*)  
jfeigelson@debevoise.com  
Jeffrey S. Jacobson  
(*to be admitted pro hac vice*)  
jsjacobson@debevoise.com  
DEBEVOISE & PLIMPTON LLP  
919 Third Avenue  
New York, NY 10022  
Telephone: (212) 909-6000  
Facsimile: (212) 521-7479

CASE NO. 3:12-CV-06342-CRB  
**DECLARATION OF ASHLEY E.  
FISHER IN SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS PURSUANT TO FED.  
R. CIV. P. 12(B)(1) AND 12(B)(6)  
OR, IN THE ALTERNATIVE,  
FOR A MORE DEFINITE  
STATEMENT PURSUANT TO  
FED. R. CIV. P. 12(E)**

DATE: April 19, 2013  
TIME: 10:00 a.m.  
PLACE: Courtroom 6, 17th Floor  
JUDGE: Hon. Charles R. Breyer

1 I, Ashley E. Fisher, declare as follows:

2 1. I am an attorney associated with the law firm of Debevoise &  
3 Plimpton LLP, counsel to Defendants L'Oréal USA, Inc. and Maybelline, LLC  
4 ("Defendants") in the above-captioned matter.

5 2. I submit this declaration in support of Defendants' Motion to Dismiss  
6 Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) or, in the Alternative, for a More  
7 Definite Statement Pursuant to Fed. R. Civ. P. 12(e), filed February 22, 2013.  
8 Unless otherwise indicated, I have personal knowledge of the facts set forth in this  
9 declaration and, if called upon as a witness, I would testify to such facts under oath.

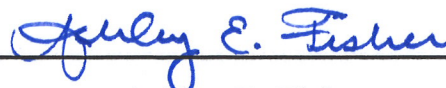
10 3. As shown on the Maybelline brand website, available at  
11 <http://www.maybelline.com/Search.aspx?q=the falsies> (accessed  
12 February 22, 2013), there are six different products sold in the Maybelline  
13 Volum'Express The Falsies mascara line – The Falsies Waterproof, The Falsies  
14 Washable, The Falsies Flared Waterproof, The Falsies Flared Washable, The  
15 Falsies Black Drama Waterproof and The Falsies Black Drama Washable.

16 4. As shown on the L'Oréal Paris brand website, available at  
17 [http://www.lorealparisusa.com/en/search-results.aspx#!/search/voluminous\\_false](http://www.lorealparisusa.com/en/search-results.aspx#!/search/voluminous_false_fiber)  
18 [\\_fiber](http://www.lorealparisusa.com/en/search-results.aspx#!/search/voluminous_false_fiber) (accessed February 22, 2013), there are two different products sold in the  
19 L'Oréal Paris Voluminous False Fiber Lashes mascara line – a washable mascara  
20 and a waterproof mascara.

21 5. Attached as Exhibit 1 is a true and correct copy of the Consumer's  
22 Notice and Demand for Remedy or Cure letter sent by Plaintiff Liat Orshansky to  
23 Defendants L'Oréal USA, Inc. and Maybelline, LLC on December 13, 2012.

24 I declare under penalty of perjury that the foregoing is true and correct.

25 Executed this 22nd day of February, 2013, in New York, New York.

26  
27 

28 Ashley E. Fisher